

**TAX TIPS FOR
PETROLEUM WHOLESALERS AND RETAILERS
CONDUCTING BUSINESS IN DELAWARE**

Things You Should Know

Definitions, 30, Del. C., Ch 29

A wholesaler is every person engaged as an owner or agent in the business of selling to or exchanging with another person goods for cash, barter or any consideration for the purpose of resale by the person acquiring the goods sold or exchanged and includes without limitation goods sold or exchanged through outlets, warehouses and distribution depots of persons whose principal place of business is located inside or outside Delaware.

A retailer is every person engaged as owner or agent in the business of selling or exchanging goods for cash or barter or any other consideration on the assumption that the purchaser of such goods has acquired the goods for ultimate consumption and not resale; and includes automatic merchandising machine operators regardless of the product dispensed or vended, retail plant nurserymen and florists, hucksters, peddlers, trading stamp redemption stores, catalog stores and branch stores.

A petroleum product means crude oil, or any portion thereof, that is liquid at 70° Fahrenheit and at standard atmospheric pressures, and includes motor fuel, gasohol, other alcohol blended fuels, diesel fuel, aviation fuel, jet fuel, heating oil, motor oil and other petroleum based lubricants.

'Goods' includes merchandise, wares, metals, wood, liquids, gas, alcoholic beverages, motor vehicles, gems, products, produce, trees, shrubs, plants, flowers, crops, livestock, animals or any tangible personal property whether new or used.

Every person engaged in the wholesale or retail sale of petroleum products is exempt from the general wholesale and retail provisions and is subject to the following provisions.

Hazardous Substance Cleanup Tax

The Delaware General Assembly enacted House Bills 708 and 710 imposing a Hazardous Substance Cleanup Tax (HSCT) on the sale of petroleum products effective for gross receipts after December 31, 1990. The tax is imposed on the sale of most petroleum products and includes motor fuel, diesel fuel, motor oil, heating oil, aviation fuel, gasohol, other alcohol blended fuels, and other petroleum based lubricants. Petroleum products used for heating of ambient space and cooking of foodstuffs are exempt from the gross receipts tax when sold to the ultimate consumer. ***Effective January 1, 1996, House Bill 627 permanently exempted crude oil from this tax.*** The taxing structure imposed the Hazardous Substance Cleanup Tax on the sale of a petroleum products from the wholesaler or manufacturer to its customer. By statute, the wholesaler is not prohibited from passing this tax on to the retailer or wholesaler. If the retailer purchases product from a licensed wholesaler who is liable for the HSCT, the retailer is exempt from the general retail requirements with respect to the retail sale of that petroleum product. An invoice from the wholesaler showing that the HSCT was billed to the retailer would be documentation supporting the exemption.

Effective after June 30, 2007, House Bill 234 amended the HSCT on petroleum gross receipts to ensure that HSCT is paid only once regardless of how many times the petroleum product is resold in Delaware. Form 9114W is now required to be filed with the wholesaler gross receipts tax form as a means of obtaining credit for HSCT previously paid.

Gross Receipts

Gross receipts includes total consideration received by a wholesaler for goods physically delivered within this State to the purchaser or his agent. Gross receipts for a retailer are based on goods sold within this State. Consideration for goods sold or services rendered includes cash, checks, credit cards, gift certificates, travelers checks, money orders, barter, trade-ins, manufacturer's coupons and rebates and any other consideration of any kind.

Gross Receipts Do Not Include:

- Motor fuel taxes paid or payable to the State of Delaware
 - Gasoline or special fuel taxes paid to the Federal government
 - Home heating oil
 - Returned merchandise or like kind exchanges
 - Motor vehicles, trailers and motorcycles titled to the owner
 - Goods delivered to the U.S. Mail or to a common carrier for delivery to a point outside of Delaware
 - Goods picked-up by the purchaser for immediate delivery outside of Delaware.
- Form 373, Wholesale Exemption Certificate**, required and available at Division of Revenue offices

Gross Receipts May Not be Reduced By:

- Cost of property sold
- Cost of material and/or labor
- Interest, discount or delivery costs
- State or Federal taxes

License and Gross Receipts Requirements

Both petroleum wholesalers and retailers are required to obtain a business license -- \$75 for each location for a wholesaler and \$75 for the first location and \$25 for additional locations for retailers -- which must be renewed annually on or before December 31st of each year. To register with the Division of Revenue and obtain a business license, please complete a Combined Registration Application and mail to the Division of Revenue with the appropriate fee. Additionally, every petroleum wholesaler and retailer must pay a gross receipts tax:

Petroleum wholesaler at the rate of .307% (.00307) on taxable gross receipts received from selling tangible personal property. The first \$80,000 of gross receipts received per month (\$240,000 quarterly) are exempt from the gross receipts tax. Plus .9% (.009) Hazardous Substance Cleanup Tax and .192% (.00192) petroleum surtax.

Petroleum retailer at the rate of .576% (.00576) on taxable gross receipts received from selling tangible personal property plus .9% (.009) Hazardous Substance Cleanup Tax. The first \$80,000 of gross receipts received per month (\$240,000 quarterly) are exempt from the gross receipts tax. Note: For a petroleum retailers with sales of groceries, snacks, print material, etc, the receipts for these items must be included in the total gross receipts and a separate record must be maintained for petroleum product sales. (See example on the next page.) **Note: Petroleum retailers who have paid the hazardous substance tax to their supplier are exempt from the gross receipts tax on the retail sale of the petroleum product.**

Specific instructions will be sent with the personalized gross receipts coupon book.

SPECIAL NOTE: ALL SALES TO THE STATE OF DELAWARE, THE UNITED STATES AND THEIR INSTRUMENTALITIES, AGENCIES AND POLITICAL SUBDIVISIONS ARE CONSIDERED WHOLESALE SALES.

Tax Rates and Exclusions

	Tax Rate	Monthly Exclusion
Petroleum Wholesaler	.00307	\$80,000
Sample Calculation:		
Line 1. Total Gross Receipts		\$773,000
Line 2. Less Exclusion		<u>80,000</u>
Line 3. Taxable Gross Receipts		\$693,000
Line 4. Line 3 x <u>.00307</u>		\$ 2,128
Line 5. Petroleum Gross Receipts		\$723,000
Line 6. Line 5 x .009		\$ 6,507
Line 7. Line 5 x .00192		<u>\$ 1,735</u>
Line 8. Tax Due (Add Lines 4, 6 & 7)		\$ 10,370
 Petroleum Retailer	 .00576	 \$80,000
Sample Calculation:		
Line 1. Total Gross Receipts		\$173,000
Line 2. Less Exclusion		<u>80,000</u>
Line 3. Taxable Gross Receipts		\$ 93,000
Line 4. Line 3 x <u>.00576</u>		\$ 536
Line 5. Petroleum Gross Receipts		\$115,000
Line 6. Line 5 x .009		<u>\$ 1,035</u>
Line 7. Tax Due (Add Lines 4 and 6)		\$ 1,571

(Note: Delaware requires that tax due be rounded-off to the nearest dollar amount.)

Due Dates of Returns

New licensees will file on a quarterly basis through their first calendar year. The Division of Revenue will then perform a 'lookback' procedure and determine if the filing frequency should be changed.

Monthly Filers	20 th day of the following month
Quarterly Filers	last day of the first month after the end of the calendar quarter.

Gross Receipts Tax Exemption

Effective January 1, 1997, House Bill No. 678, exempts from business license gross receipts tax transactions between small, closely held firms. To qualify, the subject firms must be 80% owned by the same five or fewer shareholders, or 100% owned by the same family.

Common Ownership/Direction

Businesses which operate their separate branches by the use of separate operating corporations are only entitled to one monthly or quarterly exclusion for the enterprise to the extent that the corporations have common ownership or common direction and control.

Caution Concerning Multiple Exclusions

Nearly all licensees are permitted to reduce their monthly or quarterly gross receipts by certain specific exclusions in determining their taxable gross receipts. The Delaware Code limits the number of allowable exclusions for each general business activity. A taxpayer conducting a business activity for which an exclusion is provided is entitled to **ONLY ONE** monthly or quarterly exclusion regardless of the number of locations at which such activity is conducted. For example, a taxpayer who operates multiple convenience stores at which gasoline is also sold should aggregate the receipts from all goods sold at all locations and subtract only one monthly exclusion. Separate retail licenses are not required for the sale of food and petroleum products. While the Division of Revenue may assign a unique business code which reflects the primary product sold, retailers, wholesalers and manufacturers may sell or manufacture multiple product lines without obtaining a separate license for each product line. However, separate licenses are required and separate exclusions are permitted if a taxpayer conducts more than one **ACTIVITY**, such as manufacturing and wholesaling. Please note that all Delaware manufacturers are also subject to the gross receipts tax as a Wholesaler or Retailer on sales to Delaware customers. Taxpayers who may have obtained separate licenses for each product line sold or manufactured should only renew **ONE** retailer's, wholesaler's or manufacturer's license for each place of business.

Regulatory and Local Requirements

The Business License Issued by the Division of Revenue is not a regulatory license and the issuance of such license does not attest to the qualifications of the applicant to perform the activity described on such license. Many local jurisdictions have requirements for a business license and may have restrictions concerning the locations of conducting the referenced business activity. Please check with the local government office in the town, city or county in which you will conduct your business.

The State of Delaware also has a Division of Professional Regulations. Many occupations and some types of equipment have regulatory requirements. Please contact the Division of Professional Regulation for more information.

General

If you have any questions, please contact one of the following offices

<i>Wilmington</i>	<i>Dover</i>	<i>Georgetown</i>
Division of Revenue Carvel State Office Building 820 North French Street Wilmington DE 19801 (302) 577-8205	Division of Revenue Thomas Collins Building 540 South DuPont Highway Suite 2 Dover DE 19901 (302) 744-1085	Division of Revenue Suite 2 422 North DuPont Highway Georgetown DE 19947 (302) 856-5358

or by e-mail at: richard.jczyk@state.de.us (302) 577-8265

**DELAWARE DIVISION OF REVENUE
PETROLEUM GROSS RECEIPTS TAX RETURN - FORM LQ4 9501**

LPQ

ACCOUNT NUMBER	TAX PERIOD ENDING	DUE ON OR BE FORE	BUSINESS CODE GROUP DESCRIPTION 368 WHL - PETROL
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BUSINESS NAME AND ADDRESS

1. GROSS RECEIPTS	\$		00
2. LESS EXCLUSION (See Line Instructions)	\$	240,000	00
3. TAXABLE GROSS RECEIPTS	\$		00
4. LINE 3 X 0.00307	=	\$	00
5. PETROLEUM GROSS RECEIPTS (Not more than Line 3)	\$		00
6. LINE 5 X 0.0090	=	\$	00
7. LINE 5 X 0.00192	=	\$	00
8. APPROVED TAX CREDITS	\$		00
9. TOTAL (Add Lines 4, 6 and 7 and subtract Line 8.)	\$		00

AUTHORIZED SIGNATURE I declare under penalties of perjury, that this is a true, correct and complete return.

DATE

TELEPHONE NUMBER

Mail This Form With Remittance Payable To:
Delaware Division of Revenue
P.O. Box 2340, Wilmington, DE 19899-2340
For questions, call (302) 577-8780

If desired, provide an e-mail address where we may contact you regarding this return.

E-MAIL ADDRESS

CUT ALONG THIS LINE AND SEND THE ABOVE PORTION WITH ANY PAYMENT DUE

PETROLEUM GROSS RECEIPTS TAX RETURN - QUARTERLY

Complete the return above, sign, date and file by the due date. You may file all monthly or quarterly returns at the end of the year if no tax is due on any of the returns.

To Update Your Contact/Business Information on File with Revenue:

[Remit a License Request for Change form](#)

To Change Tax Information You've Already Reported:

[Remit an Amended return](#)

SPECIFIC LINE INSTRUCTIONS

PLEASE NOTE: THE DIVISION OF REVENUE REQUIRES ROUNDING OF ALL AMOUNTS ON ALL GROSS RECEIPTS RETURNS.

- Line 1. - Enter on Line 1 the amounts of both NON-PETROLEUM AND TAXABLE PETROLEUM PRODUCTS SALES in Delaware.
Line 2. - The maximum allowable quarterly exclusion is \$240,000. (If you have more than one branch or entity with common ownership or common direction and control, you are only allowed one exclusion.)
Line 3. - Subtract Line 2 from Line 1 and enter the result on Line 3. If this is a negative amount or zero, enter zero on Line 3. (No tax is due. Sign, date and file this return.) **NOTE:** If your TAXABLE GROSS RECEIPTS is zero, you may delay filing your returns until you have tax due within the calendar year. However, you must file all returns for the calendar year by January 31st of the next year.
Line 4. - Multiply Line 3 by the gross receipts tax rate printed on the return. Enter the result on Line 4.
Line 5. - Enter on Line 5 the amount of the total gross receipts from the sale of TAXABLE PETROLEUM products. If your Petroleum receipts are MORE than Line 3, enter the amount from Line 3 on Line 5. (The amount on Line 5 cannot be greater than Line 3.)
Line 6. - Multiply Line 5 by the tax rate printed on Line 6. Enter the result on Line 6.
Line 7. - Multiply Line 5 by the tax rate printed on Line 7. Enter the result on Line 7. (Wholesalers Only)
Line 8. - Enter on Line 8 approved Business Tax Credits (Travelink, Blue Collar Job, Green Industries). Taxpayers claiming these tax credits should refer to Form 402-LTR for specific instructions, attach a copy of Form 402-LTR to this return.
Line 9. - Add Lines 4, 6, and 7, subtract Line 8 and enter the result on Line 9. This amount of tax is due and payable with the filing of this return.

If you have not already renewed this year's business license, do it now to avoid a \$200 penalty.

Go to www.delaware.gov to renew your business license online!

SAMPLE COMPLETED RETURN

1. GROSS RECEIPTS (See below)	\$	1,555,000.00
2. LESS EXCLUSION (See Line Instructions)	\$	240,000.00
3. TAXABLE GROSS RECEIPTS	\$	1,315,000.00
4. LINE 3 X 0.00307	=	\$ 4,037.00
5. PETROLEUM GROSS RECEIPTS (Not more than Line 3)	\$	400,000.00
6. LINE 5 X 0.0090	=	\$ 3,600.00
7. LINE 5 X 0.00192	= (Wholesalers Only)	\$.00
8. APPROVED TAX CREDITS	\$	367.00
9. TOTAL (Add Lines 4, 6 and 7 and subtract Line 8.)	\$	7,000.00

LINE 1 SAMPLE COMPUTATION SCHEDULE:

A. Total Delaware Sales (Enter the receipts from all Delaware sales.)	\$ 1,955,000.00
B. Exempt Sales	\$ 400,000.00
<i>Retailers</i> enter receipts from petroleum products for which your supplier charged you the Hazardous Substance Tax.	\$ 0.00
<i>Wholesalers</i> enter receipts from petroleum products for which you received an Exemption Certificate (Form 373) from the purchaser. Also include receipts from petroleum products used for heating or cooking when sold for ultimate consumption.	
C. Reportable Gross Receipts (Subtract Line A from Line B and enter result on Line 1 of return.)	\$ 1,555,000.00

Quarterly Gross Receipts Tax Returns are due on or before the last day of the month following the end of the quarter as listed.

QUARTER END	DUE DATE	QUARTER END	DUE DATE
03/31/2006	05/01/2006	09/30/2006	10/31/2006
06/30/2006	07/31/2006	12/31/2006	01/31/2007

For questions or to speak with a customer service representative, please call Revenue's Gross Receipts Department at (302) 577-8780.

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DELAWARE DIVISION OF REVENUE
PETROLEUM GROSS RECEIPTS TAX RETURN - FORM LQ4 9501

LPQ

ACCOUNT NUMBER	TAX PERIOD ENDING	DUE ON OR BEFORE	BUSINESS CODE GROUP DESCRIPTION 387 RET PETROL
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BUSINESS NAME AND ADDRESS

1. GROSS RECEIPTS	\$		00
2. LESS EXCLUSION (See Line Instructions)	\$	240,000	00
3. TAXABLE GROSS RECEIPTS	\$		00
4. LINE 3 X 0.00576	=	\$	00
5. PETROLEUM GROSS RECEIPTS (Not more than Line 3)	\$		00
6. LINE 5 X 0.0090	=	\$	00
7. APPROVED TAX CREDITS	\$		00
8. TOTAL (Add Lines 4 and 6 and subtract Line 7.)	\$		00

AUTHORIZED SIGNATURE I declare under penalties of perjury, that this is a true, correct and complete return.

DATE

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- Line 6. - Multiple Line 5 by the tax rate printed on Line 6. Enter the result on Line 6.
- Line 7. - Multiply Line 5 by the tax rate printed on Line 7. Enter the result on Line 7. (Wholesalers Only)
- Line 8. - Enter on Line 8 approved Business Tax Credits (Travelink, Blue Collar Job, Green Industries). Taxpayers claiming these tax credits should refer to Form 402-LTR for specific instructions, attach a copy of Form 402-LTR to this return.
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3. TAXABLE GROSS RECEIPTS	\$	1,315,000.00
4. LINE 3 X 0.00576	=	\$ 7,574.00
5. PETROLEUM GROSS RECEIPTS (Not more than Line 3)	\$	1,055,000.00
6. LINE 5 X 0.0090	=	\$ 9,495.00
7. APPROVED TAX CREDITS	\$	1,000.00
8. TOTAL (Add Lines 4 and 6 subtract Line 7.)	\$	16,069.00

LINE 1 SAMPLE COMPUTATION SCHEDULE:

A. Total Delaware Sales (Enter the receipts from all Delaware sales.)	\$	1,955,000.00
B. Exempt Sales	\$	250,000.00
Retailers enter receipts from petroleum products for which your supplier charged you Hazardous Substance Tax. \$		150,000.00
C. Reportable Gross Receipts (Subtract Line B from Line A and enter result on Line 1 of return.)	\$	1,555,000.00

Quarterly Gross Receipts Tax Returns are due on or before the last day of the month following the end of the quarter as listed.

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03/31/2006	05/01/2006	09/30/2006	10/31/2006
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